

Sergeant John Cheatham

September 26, 2017

DALE PHILLIPS

vs.

KAREN BLAIR, et al.

Case No. 2:16-CV-880



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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

DALE PHILLIPS,)	
)	
Plaintiff,)	
)	CASE NO.
vs.)	2:16-CV-880
)	
KAREN BLAIR, et al.,)	
)	
Defendants.)	

Deposition of: SERGEANT JOHN CHEATHAM

Pursuant to: Notice

Date and Time: Tuesday, September 26, 2017
11:50 a.m.

Place: Office of Columbus
City Attorney
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Reporter: Wendy Haehnle
Notary Public - State
of Ohio

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20 Dale K. Phillips, II

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4 EXAMINATION BY MS. BRATTON 4

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7 EXHIBITS MARKED REFERENCED

8 DEFENDANTS' EXHIBIT 1 - 14

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1 SERGEANT JOHN CHEATHAM

2 a defendant herein, having been duly sworn, was
3 examined and deposed as follows:

4 EXAMINATION

5 BY MS. BRATTON:

6 Q. Would you state your name for the
7 record, please?

8 A. Sergeant John Christopher Cheatham.

9 Q. Okay. And Sergeant Cheatham, how are
10 you employed?

11 A. How am I employed?

12 Q. Yes.

13 A. I am a police sergeant with the
14 Columbus Division of Police.

15 Q. Okay. And have you had your deposition
16 taken before?

17 A. Yes, I have.

18 Q. Okay. So just like trial, speak up.
19 If you don't understand something --

20 A. Okay.

21 Q. -- or if I ask a convoluted question,
22 just let me know and I'll rephrase it.

23 A. Okay.

24 Q. And if you need to take a break, just
25 let us know and we'll break.

1 And is there any reason that your
2 ability to concentrate would be impaired today?

3 A. No.

4 Q. Okay. And what is your current
5 assignment with the Columbus Police?

6 A. I'm the defensive tactics sergeant.
7 I'm in charge of our defensive tactics bureau.

8 Q. Okay. And how long have you been
9 employed in that position?

10 A. A year and a half.

11 Q. Okay. And prior to that?

12 A. I was a patrol sergeant.

13 Q. And prior to that?

14 A. I was a patrol officer.

15 Q. Okay. And how long were you a patrol
16 sergeant?

17 A. Almost five years.

18 Q. Okay. And then a patrol officer?

19 A. Fifteen years.

20 Q. Okay. And so you've been with the
21 force about 27 --

22 A. Twenty-two years.

23 Q. I can't count.

24 A. Twenty-two years.

25 Q. Okay. And were you employed with any

1 other law enforcement agency prior to Columbus
2 Police?

3 A. No.

4 Q. What about military?

5 A. No.

6 Q. And you train defensive tactics, you
7 said. Are there any other defensive tactics
8 trainers?

9 A. Yes.

10 Q. And do you all -- do you train
11 together, or are there separate classes, subjects
12 that each trainer teaches?

13 A. We train together.

14 Q. Okay.

15 A. I oversee the entire program. We have
16 a defensive tactics unit, which consists of
17 myself and two other instructors.

18 And then we bring in certified
19 defensive tactics instructors who normally work
20 patrol. They'll come in to assist when we have
21 large groups. They're typically assigned to
22 patrol duties, and they'll be brought in to help
23 teach.

24 Then we also have a crew of training
25 personnel who are also defensive tactics

1 certified. And they belong with us, training
2 recruits.

3 Q. Okay. And can you tell me what
4 defensive tactics training is?

5 A. Well, we specialize in all use-of-force
6 policy, all use-of-force procedure. We
7 specialize in scenario training, Taser training,
8 strikes, prisoner control, pressure points, joint
9 manipulations, take-downs, foot chases, building
10 searches, active shooter, driving.

11 We do a lot.

12 Q. Okay. And the striking, is that with
13 like a baton or --

14 A. Baton --

15 Q. Okay.

16 A. -- a flashlight. Yes.

17 Q. Okay.

18 A. Strikes, closed-hand strikes, closed --
19 closed-hand strikes like with a fist or with a
20 knee or with a foot or with an elbow.

21 Q. Okay. And if -- specifically to -- I'm
22 sorry. I withdraw that question.

23 Do you help write the use-of-force
24 policy?

25 A. No.

1 Q. Okay. So someone else writes the
2 policies and then you train on --

3 A. The policies have been around for
4 years. I haven't written any use-of-force policy
5 myself.

6 Now, when there is a change of a
7 use-of-force policy, it will be sent to me. And
8 if I agree with it, then I'll write whether I
9 agree or disagree.

10 Ultimately, the chief of police makes
11 those decisions.

12 Q. Okay.

13 A. I can make recommendations, but it's
14 not my decision.

15 Q. Okay. And if you are training on
16 chemical spray -- which is level 2 use of force,
17 correct?

18 A. Yes.

19 Q. Okay. What do you train -- how do you
20 train the officers on the use of mace?

21 A. Well, we don't actually handle
22 use-of-mace training through the division. Our
23 ordnance bureau does.

24 Now, we talk about mace and the proper
25 way of deploying mace. And there's just

1 techniques to use to make sure that you're
2 accurate in your deployment and how to protect
3 yourself during deployment. But that's actually
4 handled by Doug Former (phonetic) in the ordnance
5 staff.

6 Q. Okay. So what -- what does the
7 ordnance staff do?

8 A. Ordnance is firearms.

9 Q. Okay.

10 A. They handle firearms and the firearms
11 training and all that sort of thing.

12 Q. Okay. So would they like handle mace,
13 Tasers, and actual firearms?

14 A. No. We handle Tasers.

15 They only handle mace because that's
16 where the supply of mace is stockpiled. So when
17 people -- when officers run out of mace, they go
18 there to -- to get a new can of mace.

19 Q. Okay.

20 A. And it was just decided a couple years
21 ago it would be best if they handle the training
22 on that. So they come in and train the recruits
23 for one day on mace.

24 And then when they -- every year,
25 officers get one -- one recertification class

1 through ordnance when they go out for firearms
2 training also. They'll come through and get a
3 recertification class on deploying mace once --
4 once a year.

5 Q. Okay. So there's -- just to be clear,
6 there's no mace training at all in your unit, or
7 is there some mace training?

8 A. We'll -- we'll use mace scenario
9 training.

10 Q. Okay.

11 A. We have -- we have scenario mace that's
12 inert.

13 Okay. We'll give those to officers to
14 use. And there will be times when they use that.
15 And we'll tell them if it was a right or wrong
16 deployment.

17 So we do train mace in that regard. We
18 just don't certify officers in mace, and we don't
19 handle the mace. We don't stockpile the mace
20 that we have. We don't handle certifications on
21 mace.

22 Q. Okay. And how far away from a
23 suspect's face is an officer supposed to deploy
24 the mace?

25 A. Point-blank, up to two inches, I would

1 say.

2 Q. Okay. And what about directly touching
3 the mace bottle in someone's eye?

4 A. That's not trained.

5 Q. Okay. Would that be --

6 A. You mean the canister itself touching
7 the eye ball?

8 Q. Yes.

9 A. No, we don't train that.

10 Q. Okay. So would that be inappropriate
11 use of force then?

12 A. It would depend on many circumstances,
13 many factors, you know, what -- what was the
14 suspect doing at the time, how did that come
15 about, you know, that it was deployed in that
16 manner. I mean, I can't say if it was
17 inappropriate or not.

18 Q. Do you all have a part in reviewing --
19 how you said it would depend on the
20 circumstances, does your unit review uses of
21 force with, I guess, other supervisors to see if
22 it was a compliant -- if an officer's use of
23 force was in compliance?

24 A. No.

25 Q. Okay. And you all train on taking

1 suspects out of a car; is that correct?

2 A. Yes. Vehicle extractions, yes.

3 Q. Okay. And do you do the law portion of
4 it or just the physical, this is how you get
5 someone out of the car, or do you do the -- this
6 is why you would get someone out of a car?

7 A. Just the physical --

8 Q. Okay.

9 A. -- tactical --

10 Q. Okay.

11 A. -- portion of it, yes.

12 Q. So on the physical side, if an officer
13 decides to take someone out of a car, what would
14 be the proper technique for that?

15 A. Well, there's several techniques. It
16 depends on the suspect's behavior.

17 Q. If they're compliant. I'm sorry. If
18 it's a compliant suspect, what would be the
19 proper technique?

20 A. How would you describe compliant?

21 Q. If they're --

22 A. What is compliant?

23 Q. -- doing what the officer says.

24 A. Okay.

25 Q. So, hey, can you get out of the car;

1 open the door, start to get out. What would
2 be --

3 A. Well, typically, it depends on whether
4 or not the suspect's going to be arrested right
5 away or not, okay, as opposed to if they're not.

6 Now, if they're compliant, and they're
7 not under arrest at that point, we would ask --
8 we take hold of an arm and ask them to step out
9 of the car. Okay? And we would keep them in the
10 doorjamb if we can, okay; so where the meeting
11 comes together on the door.

12 And then we would conduct a pat-down,
13 starting with the most immediate area, and then
14 pat down. And then it all depends on the
15 circumstances on whether or not there's a
16 pat-down or not. But that's typical.

17 And then we would take them in what's
18 called an escort position, which is two hands,
19 one around the wrist and one around the elbow,
20 and escort them back to the cruiser.

21 Q. Okay. And do you let them know what
22 you're doing at that time, I'm going to pat you
23 down, I'm going touch your arms now?

24 A. No. We don't -- we don't give them a
25 verbal step-by-step on what's going to happen. I

1 mean, if they ask for it, we will tell them.

2 Q. Okay. If they ask, why are you taking
3 me out of a car, are you supposed to tell them?

4 A. Depends on the circumstances. We're
5 not required to tell them.

6 Q. And if someone is in a truck -- I'm
7 going to show you what's been marked as
8 Defendants' Deposition Exhibit 1.

9 If someone is stepping out of a truck
10 like this, where would -- what would be the
11 officer -- where would the officer, I guess,
12 first, in training, touch the suspect?

13 MS. LLOYD: I'm going to object as to
14 form.

15 A. The officer would be trained to stand
16 behind the doorjamb, the pillar of the door.

17 BY MS. BRATTON:

18 Q. So on (indicating) --

19 A. No, ma'am. Behind where -- if you look
20 at the -- the person in the vehicle there --

21 Q. Yes.

22 A. -- his left elbow, standing just --

23 Q. Oh, okay.

24 A. -- to the rear of that.

25 Q. Okay. Toward the back?

1 A. Yes.

2 Q. So it would be driver's side, toward
3 back-tire side?

4 A. Yes.

5 Q. Okay. They would be positioned there.

6 A. And before the person stepped out of
7 the car, they would reach with their left hand
8 and place it around the wrist, and with their
9 right hand place it around the elbow, and then
10 escort them up out of the car, keeping them faced
11 towards the -- the door, and then conduct a
12 pat-down right there.

13 Q. Okay. So they would, basically, have
14 them turn around then?

15 A. And again, this is a completely non --
16 non -- or a completely compliant, low-level crime
17 incident.

18 Q. Yeah. If it was a high-level crime
19 incident, like a burglary, what would be
20 different about how you would get someone out?

21 A. We would remove them at gunpoint.

22 Q. Even if you didn't know if they were
23 involved in the burglary and they were -- they
24 weren't under arrest, they were just being
25 investigated?

1 A. Well, if it's a burglary suspect,
2 okay -- a burglary suspect, we may remove them at
3 gunpoint.

4 If it's somebody we're not sure what
5 their involvement is, we may approach them, take
6 them out cautiously.

7 Q. Okay. And if you -- is there any time
8 that you would allow an officer -- let me
9 withdraw that.

10 Are there any situations in which
11 officers are trained to not guide an individual
12 out of a car?

13 A. No.

14 Q. Okay. So if an officer just lets
15 somebody walk out of the car, that would be
16 against training?

17 A. We would prefer that they not do that,
18 yes.

19 Q. Okay. And would that be -- is there a
20 policy about it?

21 A. There's no policy, but there's a lesson
22 plan.

23 Q. Okay. And then if someone does not
24 have both feet out of the ground -- or on the
25 ground and just one foot out, what is your -- I

1 guess, how would they be trained on getting
2 someone out --

3 MS. LLOYD: Objection as to form.

4 BY MS. BRATTON:

5 Q. -- if you can understand. If you don't
6 understand, I can rephrase it.

7 A. Rephrase it, please.

8 Q. Yes. So looking at Defendants'
9 Exhibit 1, it's -- Mr. Phillips has a pickup
10 truck. And the pickup truck doesn't have -- I
11 guess I'll call it the step stool piece --

12 A. Uh-huh.

13 Q. -- so there's height to it.

14 A. Uh-huh.

15 Q. You -- so if one foot is out, and
16 Mr. Phillips is supposed to turn around before he
17 gets out, how do you -- how is an officer trained
18 to assist him so that -- I guess, so that he
19 doesn't fall?

20 MS. LLOYD: And I'm going to object as
21 to the form of the question.

22 A. Well, if -- what's the name you gave?

23 BY MS. BRATTON:

24 Q. Mr. Phillips.

25 A. Okay. If Mr. Phillips is being

1 compliant, completely compliant, like you
2 described before --

3 Q. Yes.

4 A. -- the procedure would be the same.

5 Q. No, I understand.

6 What I'm saying is -- so he would
7 pivot, I want to say, I guess, midair, because if
8 one foot is in and one foot is out, when you grab
9 the suspect --

10 A. Okay. We're still going to take ahold
11 of the arm. But I don't see any difference in us
12 taking ahold of the arm and Mr. Phillips
13 routinely exiting the car without us being there.
14 It would be the same.

15 Q. Okay. I'm not being clear. I'm sorry.
16 That's me.

17 Would Mr. Phillips, in this situation,
18 be expected to turn around and face the inside of
19 the truck prior to putting a second foot down?

20 MS. LLOYD: Again, I'm going to object
21 as to the form of that question.

22 Because Mr. Phillips, in that
23 photograph, he's not in a situation. I
24 think that was something done by you, taking
25 his photograph, or someone taking his

1 photograph.

2 A. Answer?

3 BY MS. BRATTON:

4 Q. Yeah. If she doesn't direct you to
5 answer -- or not to answer, then you answer the
6 question.

7 A. Okay.

8 Q. And she'll make the objection for the
9 record.

10 A. We -- well, I never said that we would
11 want him to face the inside of the truck. We
12 want him to face the door -- the doorjamb, where
13 the door comes together with the car.

14 Q. Okay.

15 A. We would, again, take him by the left
16 wrist and left elbow, in the escort position,
17 assist him out of the car, and have him face the
18 doorjamb.

19 Q. Okay. So he would face --

20 A. Where the door meets the car.

21 Q. Okay.

22 A. Yes.

23 Q. And then can you tell me what the
24 double-leg takedown is?

25 A. The double-leg takedown?

1 Q. Yes.

2 A. The double-leg takedown is where you
3 lower your level. An officer lowers their level
4 and wraps both legs around -- or both arms around
5 both legs and takes the person to the ground.

6 Q. And when you say lower the level,
7 they -- is that kneeling?

8 A. On their knees.

9 Q. Okay.

10 A. On their knees, yes.

11 Q. Okay. And if a person is exiting a
12 vehicle -- compliant in exiting a vehicle, would
13 there be -- is there any training that allows an
14 officer to -- or that it wouldn't be -- let me
15 see how I can ask this question.

16 Would they be trained to grab someone's
17 legs as they're exiting the vehicle?

18 A. Is there -- can I ask a question --

19 Q. Yes.

20 A. -- clarify a question?

21 There's no -- they're completely
22 physically compliant and completely verbally
23 compliant, correct?

24 Q. Correct.

25 A. Okay. Well, a double-leg takedown is a

1 level 1 on our use-of-force continuum.

2 Q. Okay.

3 A. We have eight levels. Okay? So it's
4 the second-lowest level, right above our mere
5 presence at the scene.

6 Q. Okay.

7 A. Okay? So if an officer would
8 articulate a reason for feeling this person needs
9 to be on the ground, based on their behavior,
10 then, yes, that would be within policy.

11 Q. Okay.

12 A. If there is no reason at all, no
13 defiance at all, they're completely cooperative,
14 then that would be against policy.

15 Q. Okay. And then once there is a
16 double-leg takedown and everybody falls to the
17 ground with the suspect, and a suspect falls face
18 forward, how are officers trained to handcuff the
19 suspect at that point?

20 MS. LLOYD: I'm going to object as to
21 the form of question.

22 A. There's many factors involved. What is
23 the position of the body? Where are the arms?
24 Is he kneeling? Is he prone out? Is he looking
25 at you or away from you? Is he -- is he

1 screaming profanities? Is he making it -- is he
2 wiggling his body so as not to have his arms
3 moved? Is he tensing his muscles so as not to
4 get his arms behind his back? I mean, there's
5 many things that a -- that a person can do in the
6 situation not to be handcuffed.

7 So if the officer were to merely take
8 him to the ground and there's absolutely no
9 resistance at all, the proper procedure would be
10 to take the most -- the closest arm, bring it
11 back behind the back, the other arm behind the
12 back, get the handcuffs on him as quickly as
13 possible.

14 BY MS. BRATTON:

15 Q. Are officers trained to give a
16 suspect -- if a suspect fall on their -- face
17 forward, hands under them, are officers trained
18 to first say, put your arms behind your back, or,
19 give me your arms --

20 A. Could --

21 Q. -- to -- I'm sorry -- to give the
22 suspect time to comply?

23 A. We're trained to give verbal commands.
24 We train our officers to give loud verbal
25 commands so the suspect knows exactly what we

1 expect of them.

2 Q. Okay. And -- and how long are -- or is
3 there any training around how long to give
4 someone to comply?

5 A. Yes. We call it the three-second rule.
6 A person has three seconds to comply. If they
7 don't, then we try a different technique.

8 Q. Okay. And is that technique like going
9 up the use-of-force continuum, or would it be
10 asking a different question?

11 A. Not necessarily. Again, there's
12 many -- there's many factors involved in the
13 suspect's actions that would dictate whether or
14 not you escalate on the use-of-force continuum.

15 If they attempt a diff -- a same -- a
16 level that's similar to the level that you're
17 already attempting -- or you may escalate,
18 depending on how you articulate what had
19 happened.

20 Q. Uh-huh. So what would -- so when you
21 said, three-second rule, you would try a
22 different technique. What would that -- can you
23 give me an example of what a different technique
24 would be that you would try?

25 A. If I have a person on their feet and I

1 try -- I attempt an arm bar takedown, and as I'm
2 attempting to get them to the ground they pull
3 their arm into their side and I can't get them to
4 the ground, I would transition to a row
5 (phonetic) technique, which is a way of
6 separating that arm from the body and using their
7 forward momentum to get them to the ground.

8 Q. And then are officers trained -- when
9 multiple officers are on the ground and they
10 can't see, is there any training around what
11 their actions should be in regard to handcuffing
12 or identifying -- let me go back -- in regard to
13 identifying the suspect on the ground?

14 MS. LLOYD: I'm going to object as to
15 form.

16 A. I don't understand what you mean by,
17 they can't see.

18 BY MS. BRATTON:

19 Q. So in this particular case, there has
20 been testimony that it was dark outside, the
21 officers couldn't see -- couldn't see well, that
22 one of the officers almost -- or not even
23 almost -- grabbed an officer's arm, mistaking it
24 for Mr. Phillips's arm, and almost handcuffed
25 him.

1 Is there any training about, stop,
2 identify, make sure that the person you're
3 struggling with is the suspect? Is there any --
4 what are they supposed to do, I guess, in that
5 situation?

6 MS. LLOYD: I'm going to object to the
7 form of that question and to the
8 characterization of the previous testimony.

9 A. Well, we tell our officers -- first of
10 all, we recognize it as fast evolving -- a tense,
11 fast evolving situation.

12 And we give them different techniques
13 for a maximum resister. That's what we call it,
14 a person who is face down on the ground, arms
15 pinned underneath them, fighting, not wanting to
16 be handcuffed. And we try to get officers to
17 cordon off the body. So one officer would be
18 around the head, to stabilize the head, one on
19 each arm, one on the legs.

20 But -- but we also recognize that it
21 depends on the situation. There may not be room
22 for all that, you know, depending where -- where
23 you're at.

24 We ask officers to use loud verbal
25 commands and to try to communicate as much as

1 possible with each other. The fact that you
2 can't see, that -- that happens sometimes. Areas
3 just aren't well lit. I mean, we recognize that
4 as well.

5 BY MS. BRATTON:

6 Q. Okay. So I guess the -- I guess the
7 question I was asking is, is there anything in
8 the training, you know, stop, make sure you're on
9 one body part, somebody else is on another, just
10 so that you can identify the person you're
11 struggling is a suspect and not another
12 officer?

13 MS. LLOYD: Again, objection as to the
14 form of the question.

15 A. We -- again, we train our officers
16 to -- to take a different position on the body so
17 two officers aren't on one -- one part of the
18 body. But we also recognize, during a tense,
19 fast evolving situation, that -- that may be the
20 case.

21 We also train our officers that we
22 don't know if a suspect's armed until we do a
23 search or a pat-down. So that's always in the
24 back of their mind: Is this person armed?

25 Is -- and usually, where most people

1 carry a weapon is their waistband. So we know if
2 their arms are pinned underneath them, there is
3 chance they may come out with a gun or a knife,
4 which -- which escalates the situation for us
5 rapidly. Okay?

6 So we -- we have to -- we have to be
7 aware that that's a possibility, there's a
8 potential they may be armed.

9 BY MS. BRATTON:

10 Q. Okay. Going back -- that made me think
11 of another question.

12 Going back, if someone has -- if you
13 walk up to a car, someone's in a car when you do
14 a stop, and their ID is in the back seat, is
15 there any training about what an officer is
16 supposed to do; supposed to shine a flashlight in
17 the back, or is there any --

18 MS. LLOYD: Objection as to form.

19 A. Well, again, we would want to slow this
20 down. If the ID -- if the ID is in the back, it
21 would be best if the officer reached in and
22 retrieved the ID.

23 BY MS. BRATTON:

24 Q. Okay.

25 A. That's -- you keep the back seat

1 illuminated as much as possible, keep the
2 suspect -- or the person illuminated as much as
3 possible and then retrieve the ID in that
4 fashion.

5 And most people comply in that
6 situation. Most people go along with the program
7 and say, yes, Officer, retrieve that ID. You
8 know, they'll allow -- that's usually not a
9 problem.

10 Q. And when -- how should an officer stop
11 a car if they are approaching, I guess, hood to
12 hood, in the car?

13 A. How should they make a vehicle stop in
14 their car?

15 Q. Yes.

16 A. Well, we -- we train to try to do a
17 stop from the rear if at all possible. But
18 that's not always possible.

19 Ideally, they would want to angle their
20 cruiser so, at least when they get out of the
21 cruiser, they have the engine block as cover.
22 Okay?

23 Because -- especially at nighttime, a
24 lot of times you can't see in the car. We would
25 tell them -- to take the spotlight and illuminate

1 the inside of the car. Try not to direct it
2 directly into the driver's eyes, but into a place
3 like on the passenger side so you can see the
4 inside of the car.

5 Use the take-down lights on top, and
6 make a safe approach.

7 Q. Okay. So when you illuminate the -- if
8 you pull in -- what was it, like catty-corner
9 kind of -- and you illuminate the light, you're
10 able to see inside of a subject's vehicle?

11 A. Not always. It depends on the type of
12 car, where they're at, the time -- what time of
13 day, the lighting. It's not always possible to
14 see -- see at all or everything, but you make
15 every attempt.

16 You can also use your flashlight to
17 see.

18 Q. Okay. And do you get out of the car
19 prior to the car being stopped?

20 A. You mean while the car is still
21 rolling?

22 Q. Yes. Do you stop a car -- no, sorry --
23 not the officer's car.

24 Do you stop a car on foot if you can
25 stop it, I guess, in the car? Do you get out and

1 stop a car on foot?

2 Is that how officers are trained, I
3 guess would be the question.

4 A. Is my cruiser right there?

5 Q. Yes.

6 A. Is the suspect's car moving?

7 Q. Yes.

8 A. We train officers not to position
9 themselves in front of a moving vehicle, if
10 that's what you're asking.

11 Q. Okay.

12 A. We don't do that.

13 Q. Okay.

14 A. That is one of our most dangerous stops
15 that we have to make, though, in front of the
16 stop.

17 Q. And do you make decisions about
18 retraining or -- decisions about retraining?

19 A. No.

20 Q. Okay. What about someone passing or
21 failing training?

22 A. Yes.

23 Q. Okay. And what would be -- and if
24 someone fails a training, do they just have to
25 retake it or --

1 A. It depends on what level. Are we
2 talking recruits, at a recruit level, or at an
3 officer level?

4 Q. At officer level.

5 A. At officer level, they're remediated
6 and retrained.

7 Q. Okay. And have you ever supervised an
8 officer who was required to retake or to be
9 retrained on use of force?

10 A. When I was patrol sergeant?

11 Q. Yes.

12 A. No.

13 Q. Okay. And in your position now, have
14 you encountered officers who had to be retrained
15 on use of force?

16 A. Yes.

17 Q. And what were those circumstances?

18 MS. LLOYD: Objection as to form.

19 A. I -- I had -- I'm trying to remember.
20 It's been a while.

21 I did have one where -- it was a -- it
22 was a bad situation all around. But there was
23 shoplifting at a Lowe's. And it ended up being a
24 felony shoplifting. The car was stolen. The
25 suspect ended up being a wanted felon.

1 Officers -- officers boxed the car in.
2 And as it was trying to leave with the wagon, it
3 went up, the person threw the car in drive and
4 tried to drive off. The officers reached in.

5 And from one side of the car, the
6 officer was fighting over the gear shift, trying
7 to get the car in park; other officer ended up
8 having to dive through the passenger window
9 because -- because the guy was trying to drive
10 away.

11 And the officer ends up falling out of
12 the car and getting run over by the car.

13 BY MS. BRATTON:

14 Q. The driver or the passenger officer?

15 A. The driver's side officer.

16 Q. Okay. So that's why the passenger
17 officer jumped --

18 A. Dove in --

19 Q. Okay.

20 A. -- and had his hand on the gear shift,
21 fighting over the gear shift to keep it in
22 drive.

23 There was a Taser deployed by the
24 officer on the passenger side, which was
25 ineffective.

1 And the officer was retrained on diving
2 into that car.

3 Q. Okay. And do you make decisions on
4 whether force is necessary or excessive?

5 A. No.

6 But we don't -- the Supreme Court says
7 that we don't speak of force in terms of the term
8 necessary. It's reasonable. Necessary isn't a
9 word.

10 Q. Do you make decisions on reasonable
11 uses of force?

12 A. No.

13 Q. I might be done.

14 (A recess was taken from 12:20 to
15 12:26.)

16 BY MS. BRATTON:

17 Q. This may or may not be within the
18 purview of your training. But do you have
19 training -- do you conduct the training on when
20 officers are supposed to use the video and
21 mics?

22 A. No.

23 Q. Okay. And the three-second rule you
24 spoke of, is that three seconds for full
25 compliance or three seconds to start complying?

1 A. If the person is fully compliant,
2 there's no force being used at all. So it would
3 be for a noncompliant person.

4 Q. Okay. What about if -- if someone -- a
5 door is open, someone -- you say, get out of the
6 car; they say, why do I have to get out of the
7 car; more than three seconds.

8 At that point, do you pull them out of
9 the car, or would you give another command and
10 say, get out of the car?

11 A. It would depend on the situation and on
12 the type of crime you're investigating, what
13 you're suspicious of, the person's gestures or
14 mannerisms, their age, their sex, their size,
15 their body type.

16 There's a lot that's involved in
17 that.

18 Q. Okay. So there is training that if a
19 person -- and I'm going with a compliant person
20 at this point. If a person is compliant but just
21 asking a question, and their hands and feet are
22 visible to you, based on the crime that you're
23 investigating, it would be okay to pull someone
24 out of the car?

25 A. Yes.

1 Q. And that's a policy of Columbus
2 Police?

3 A. Yes.

4 Q. And then when you are removing -- when
5 an officer is removing someone from a car -- and
6 we talked about, I guess, the rear -- is this
7 called the rear of the doorjamb?

8 A. Or pillar, door pillar.

9 Q. Okay. Door pillar, and then this is
10 doorjamb?

11 A. Yes.

12 Q. Where are the officers, when they get
13 someone out, trained to stand; so if they're
14 guiding someone out of a car?

15 MS. LLOYD: Objection as to form.

16 A. They will stand the person up out of
17 the car and face them towards the doorjamb. So
18 they're trained to stand at the rear of the
19 person and bring both hands behind their back.

20 BY MS. BRATTON:

21 Q. Okay. So they should be behind the
22 person, not on the side?

23 A. They -- well, they're going to
24 eventually have to be on the side when they help
25 them up out of the car. But if the person's

1 completely compliant, then that's not an issue.

2 They're going to do what they're directed to do.

3 Q. Okay. And I guess what I'm asking --
4 the question is, the officer is supposed to give
5 the person room to get out of the car?

6 A. Yes.

7 Q. Okay.

8 MS. BRATTON: I think that's it. Thank
9 you.

10 THE REPORTER: Signature?

11 MS. LLOYD: Oh, yes, please.

12

13

SERGEANT JOHN CHEATHAM

14

15

- - -

16

DEPOSITION ADJOURNED AT 12:30 P.M.

17

- - -

18

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1 C E R T I F I C A T E

2

3 STATE OF OHIO :
4 : SS
5 COUNTY OF HAMILTON :

6 I, Wendy Scott, the undersigned, a duly
7 qualified and commissioned notary public within
8 and for the State of Ohio, do certify that before
9 the giving of his deposition, SERGEANT JOHN
10 CHEATHAM was by me first duly sworn to depose the
11 truth, the whole truth and nothing but the truth;
12 that the foregoing is the deposition given at
13 said time and place by SERGEANT JOHN CHEATHAM;
14 that I am neither a relative of nor employee of
15 any of the parties or their counsel, and have no
16 interest whatever in the result of the action.

17 IN WITNESS WHEREOF, I hereunto set my hand
18 and official seal of office at Cincinnati, Ohio,
19 this 6th day of October 2017.

20

21

22 Wendy Scott
Notary Public - State of Ohio
My commission expires September 3, 2022

23

24

25

1 E R R A T A S H E E T

2 DEPOSITION OF: SERGEANT JOHN CHEATHAM
3 TAKEN: SEPTEMBER 26, 2017

4 Please make the following corrections to my
5 deposition transcript:

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25	Witness Signature	Date
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